



9110-04-P

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

### **33 CFR Part 100**

**[Docket Number USCG-2020-0108]**

**RIN 1625-AA08**

### **Special Local Regulation, Salinas Power Boat Race; Bahia De Rincon, PR**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

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**SUMMARY:** The Coast Guard is establishing a special local regulation on the waters of Bahia De Rincon, Puerto Rico during the Salinas Power Boat Race. Approximately 50 high speed boats and personal water crafts are expected to participate in the race. The special local regulation is necessary to ensure the safety to race participants, participant vessels, and the general public during the event. The special local regulation establishes a race area, where all persons and vessels, except those participating in the race, will be prohibited from entering, transiting through, anchoring in, or remaining within unless authorized by the Captain of the Port San Juan or a designated representatives.

**DATES:** This rule is effective daily from 6 a.m. until 6 p.m on February 29, 2020 and March 1, 2020.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2020-0108 in the “SEARCH” box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call or email LCDR Pedro L. Mendoza, Waterways Management division, U. S. Coast Guard; telephone 787-691-7058, email [Pedro.L.Mendoza@uscg.mil](mailto:Pedro.L.Mendoza@uscg.mil).

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

**II. Background Information and Regulatory History**

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The Coast Guard did not receive the necessary information to publish notice for this event until January 28, 2020, which is 32 days before the event is scheduled to occur. Any delay in the effective date of this rule would be contrary to the public interest because immediate action is needed to minimize potential danger to the

race participants, participating vessels, spectators and the general public. It is impracticable to publish an NPRM because we must establish this special local regulation by February 28, 2020.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register** for the same reasons listed above.

### **III. Legal Authority and Need for Rule**

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port San Juan (COTP) has determined that potential hazards associated with the event will be a safety concern for anyone in the area. This rule is needed to ensure safety of life on navigable waters of the United States during the event.

### **IV. Discussion of the Rule**

This rule establishes a special local regulation daily from 6 a.m until 6 p.m. on February 29, 2020 and March 1, 2020. The municipality of Salinas and the Caribbean Power Boat Association is sponsoring the Salinas Power Boat Championship – a high speed power boat and personal water craft (PWC) race in the waters near Salinas, Puerto Rico. Approximately 50 high speed boats and PWC's are expected to participate in the races.

The special local regulation encompasses certain waters of the Municipality of Salinas, Puerto Rico in Bahia de Rincon, and will consist of one large area in which there will be: one race area for high-speed power boats, once race area for PWC's and a buffer area. All persons and vessels, except those persons and vessels participating in the race

or enforcing the special local regulation, are prohibited from entering, transiting through, anchoring in, or remaining within the area. Persons and vessels may request authorization to enter, transit through, anchor in, or remain within the race area by contacting the Captain of the Port San Juan by telephone at 787-289-2041, or a designated representative via VHF radio on channel 16. If authorization is granted by the Captain of the Port San Juan or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port San Juan or a designated representative. The Coast Guard will provide notice of the regulated area by Broadcast Notice to Mariners, and on-scene designated representatives.

## **V. Regulatory Analyses**

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

### *A. Regulatory Planning and Review*

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on: (1) the special local regulation will be enforced for twelve hours daily over a two day period; (2) although persons and

vessels will not be able to enter, transit through anchor in, or remain within the race area, without authorization from the Captain of the Port San Juan or a designated representative, they may operate in the surrounding area during the enforcement period; (3) persons and vessels may still enter, transit through, anchor in, or remain within the race area, during the enforcement period. If authorized by the Captain of the Port San Juan or a designated representative; and (4) the Coast Guard will provide advance notification of the special local regulation to the local maritime community by Broadcast Notice to Mariners.

#### *B. Impact on Small Entities*

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the special local regulation may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or

email the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

#### *C. Collection of Information*

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

#### *D. Federalism and Indian Tribal Governments*

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities

between the Federal Government and Indian tribes.

*E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

*F. Environment*

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves creation of a special local regulation in conjunction with a regatta or marine parade to ensure the safety of race participants, participant vessels and the general public during the event. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble.

*G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are

asked to call or email the person listed in the FOR FURTHER INFORMATION CONTACT section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

### **List of Subjects in 33 CFR Part 100**

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

### **PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS**

1. The authority citation for part 100 continues to read as follows:

**Authority:** 46 U.S.C. 70041; 33 CFR 1.05-1.

2. Add § 100.T07-0108 to read as follows;

**§ 100.T07-0108 Special Local Regulation; Salinas Power Boat Race; Salinas, PR.**

- (a) *Regulated Area.* The following regulated area is established as a special local regulation. All coordinates are North American Datum 1983.

- (1) *Power Boat Race Area.* All waters of Bahia de Rincon Bay encompassed within the following points: starting at Point 1 in position 17°58'32.6562"N, 66°19'22.6986"W; thence south to Point 2 in position 17°58'25.7478"N, 66°19'09.7242"W; thence east to Point 3 in position 17°15'21.8190"N, 66°18'35.7336"W; thence north-east to point 4 in position 17°57'21.5238"N, 66°19'42.6138"W; thence west-northwest back to origin.

- (b) *Definition.* The term “designated representative” means Coast Guard Patrol



Commanders, including Coast Guard cowswains, petty officers, and other officers operating Coast Guard vessels, and Federal, State, and local officers designated by or assisting the Captain of the Port San Juan in the enforcement of the regulated area.

(c) *Regulations.* (1) Except for those persons and vessels participating in the race or enforcing the special local regulation, all persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within a 200-yard radius of the power boat race area. Persons and vessels may request authorization to enter, transit through, anchor in, remain within the regulated area by contacting the Captain of the Port San Juan by telephone at (787) 289-2041, or a designated representative via VHF radio on channel 16. If authorization is granted by the Captain of the Port San Juan or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port San Juan or a designated representative.

(2) The Coast Guard will provide notice of the regulated area by Broadcast Notice to Mariners, and on-scene designated representatives

(d) *Enforcement period.* This rule will be enforced daily from 6 a.m. until 6 p.m. on February 29, 2020 and March 1, 2020, unless sooner terminated by the Captain of the Port San Juan.

Dated: February 14, 2020.

G. H. Magee,

CAPT, U.S. Coast Guard,  
Alterante Captain of the Port.

[FR Doc. 2020-03462 Filed: 2/27/2020 8:45 am; Publication Date: 2/28/2020]